

**House File 587 - Introduced**

HOUSE FILE 587

BY COMMITTEE ON TRANSPORTATION

(SUCCESSOR TO HSB 176)

**A BILL FOR**

1 An Act relating to the regulation of agreements between  
2 manufacturers or distributors, and dealers relating to the  
3 sale of recreational vehicles and including applicability  
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

RECREATIONAL VEHICLE SALES

Section 1. NEW SECTION. 322E.1 Definitions.

When used in this chapter, unless the context otherwise requires:

1. "*Area of sales responsibility*" means the geographical area, agreed to by a dealer and a manufacturer or distributor in a manufacturer and dealer agreement, within which area the dealer has the exclusive right to display and sell the manufacturer's or distributor's new recreational vehicles of a particular line-make to a consumer.

2. "*Consumer*" means a person who is offered or purchases a new recreational vehicle in a retail transaction.

3. "*Dealer*" means any person, firm, corporation, or business entity licensed or required to be licensed as a motor vehicle dealer pursuant to chapter 322 or as a travel trailer dealer pursuant to chapter 322C.

4. "*Distributor*" means any person, firm, corporation, or business entity that purchases new recreational vehicles for resale to a dealer.

5. "*Factory campaign*" means an effort on the part of a warrantor to contact a recreational vehicle owner or dealer in order to address a part or equipment issue.

6. "*Family member*" means a person who is the spouse, child, grandchild, parent, sibling, niece, or nephew of a recreational vehicle owner or the spouse of such a person.

7. "*Fifth-wheel trailer*" means the same as fifth-wheel travel trailer defined in section 321.1.

8. "*Folding camping trailer*" means a vehicle mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold to provide temporary living quarters for recreational, camping, or travel use.

9. "*Line-make*" means a specific series of recreational vehicles that include all of the following:

1     *a.* Are identified by a common series trade name or  
2 trademark.

3     *b.* Are targeted to a particular market segment, as  
4 determined by the recreational vehicle's decor, features,  
5 equipment, size, weight, and price range.

6     *c.* Have lengths and interior floor plans that distinguish  
7 the recreational vehicle from other recreational vehicles  
8 with substantially the same decor, features, equipment, size,  
9 weight, and price range.

10    *d.* Belong to a single, distinct classification of  
11 recreational vehicle product type having a substantial degree  
12 of commonality in the construction of the chassis, frame, and  
13 body, and in price range.

14    *e.* Are authorized for sale by a dealer pursuant to a  
15 manufacturer and dealer agreement.

16    10. "*Manufacturer*" means any person, firm, corporation,  
17 or business entity that engages in the manufacturing of  
18 recreational vehicles.

19    11. "*Manufacturer and dealer agreement*" means a written  
20 agreement or contract entered into between a manufacturer  
21 or distributor and a dealer that fixes the rights and  
22 responsibilities of the parties and pursuant to which the  
23 dealer sells new recreational vehicles.

24    12. "*Motor home*" means the same as defined in section 321.1.

25    13. "*Park model recreational vehicle*" means a vehicle that  
26 is all of the following:

27    *a.* Designed and marketed primarily as temporary living  
28 quarters for recreational, camping, travel, or seasonal use.

29    *b.* Built on a single chassis mounted on wheels.

30    *c.* Has a gross trailer area not exceeding four hundred  
31 square feet in the set-up mode, and if less than three hundred  
32 twenty square feet in the set-up mode would require a special  
33 movement permit for highway transit.

34    *d.* Certified by the manufacturer as complying with the  
35 American national standards institute All9.5 park model

1 recreational vehicle standard.

2 14. "*Proprietary part*" means any part manufactured by or for  
3 and sold exclusively by a manufacturer.

4 15. "*Recreational vehicle*" means a vehicle which is either  
5 self-propelled or towed by a consumer-owned vehicle, primarily  
6 designed to provide temporary living quarters for recreational,  
7 camping, or travel use that complies with all applicable  
8 federal vehicle regulations. "*Recreational vehicle*" includes a  
9 "*motor home*" and a "*travel trailer*".

10 16. "*Supplier*" means any person, firm, corporation, or  
11 business entity that engages in the manufacture of recreational  
12 vehicle parts, accessories, or components.

13 17. "*Transient consumer*" means a consumer who is temporarily  
14 traveling through a dealer's area of sales responsibility.

15 18. "*Travel trailer*" means the same as defined in section  
16 321.1. "*Travel trailer*" includes a fifth-wheel trailer, folding  
17 camping trailer, and a park model recreational vehicle, but  
18 does not include a vehicle that is so designed as to permit it  
19 to be towed exclusively by a motorcycle.

20 19. "*Warrantor*" means any person, firm, corporation, or  
21 business entity, including any manufacturer or supplier, that  
22 provides a written warranty to a consumer in connection with  
23 a new recreational vehicle or a part, accessory, or component  
24 of a new recreational vehicle. "*Warrantor*" does not include  
25 a dealer, supplier, or other person, firm, corporation, or  
26 business entity not controlled by a manufacturer that provides  
27 a service contract, mechanical or other insurance, or extended  
28 warranties sold for separate consideration to a consumer.

29 **Sec. 2. NEW SECTION. 322E.2 Manufacturer and dealer**  
30 **agreements — area of sales responsibility.**

31 1. A manufacturer or distributor shall not sell a new  
32 recreational vehicle in this state to or through a dealer  
33 without first entering into a written manufacturer and dealer  
34 agreement with the dealer that has been signed by both parties.  
35 A dealer shall not sell a new recreational vehicle in this

1 state without first entering into a written manufacturer and  
2 dealer agreement with a manufacturer or distributor that has  
3 been signed by both parties.

4 2. A manufacturer and dealer agreement shall designate the  
5 area of sales responsibility exclusively assigned to a dealer  
6 by the manufacturer or distributor and the manufacturer or  
7 distributor shall not change that area or contract with another  
8 dealer for sale of the same line-make in the designated area  
9 for the duration of the agreement.

10 3. The area of sales responsibility designated in a  
11 manufacturer and dealer agreement shall not be reviewed  
12 or changed until at least one year after execution of the  
13 agreement without the consent of both parties to the agreement.

14 Sec. 3. NEW SECTION. 322E.3 **Manufacturer and dealer**  
15 **agreements — termination, cancellation, nonrenewal, and**  
16 **alteration.**

17 1. *Termination by manufacturer or distributor.*

18 a. A manufacturer or distributor, directly or through any  
19 authorized officer, agent, or employee, may terminate, cancel,  
20 or fail to renew a manufacturer and dealer agreement with good  
21 cause.

22 b. If the manufacturer or distributor terminates, cancels,  
23 or fails to renew a manufacturer and dealer agreement with  
24 good cause, the manufacturer or distributor is not required to  
25 comply with the provisions of section 322E.4.

26 c. The manufacturer or distributor has the burden of showing  
27 good cause for terminating, canceling, or failing to renew a  
28 manufacturer and dealer agreement. For purposes of determining  
29 whether good cause exists for such termination, cancellation,  
30 or nonrenewal of the agreement, any of the following factors  
31 may be considered:

32 (1) The extent of the affected dealer's penetration in the  
33 area of sales responsibility.

34 (2) The nature and extent of the dealer's investment in the  
35 dealer's business.

1 (3) The adequacy of the dealer's service facilities,  
2 equipment, parts, supplies, and personnel.

3 (4) The effect of the proposed termination, cancellation,  
4 or nonrenewal of the agreement on the community.

5 (5) The extent and quality of the dealer's service under the  
6 warranties of the recreational vehicles sold.

7 (6) The dealer's failure to follow agreed upon procedures or  
8 standards related to the overall operation of the dealership.

9 (7) The dealer's performance under the terms of the  
10 manufacturer and dealer agreement.

11 d. (1) Except as otherwise provided in this paragraph  
12 "d", a manufacturer or distributor shall provide a dealer with  
13 at least ninety days' prior written notice of termination,  
14 cancellation, or nonrenewal of the manufacturer and dealer  
15 agreement.

16 (2) (a) The notice shall state all of the reasons for the  
17 termination, cancellation, or nonrenewal and shall further  
18 state that if, within thirty days following receipt of the  
19 notice, the dealer provides to the manufacturer or distributor  
20 a written notice of intent to cure all claimed deficiencies,  
21 the dealer shall then have ninety days following receipt of  
22 the notice to cure the deficiencies. If the dealer fails  
23 to provide notice of intent to cure the deficiencies within  
24 thirty days following receipt of the notice, the termination,  
25 cancellation, or nonrenewal of the agreement for good cause  
26 takes effect thirty days following the dealer's receipt of the  
27 notice.

28 (b) If the dealer provides notice of intent to cure the  
29 deficiencies stated and the deficiencies are cured by the  
30 dealer within ninety days following receipt of the notice,  
31 the manufacturer's or distributor's notice to the dealer is  
32 voided. If the dealer provides notice of intent to cure the  
33 deficiencies stated and fails to cure the deficiencies within  
34 ninety days following receipt of the notice, the termination,  
35 cancellation, or nonrenewal of the agreement for good cause

1 takes effect ninety days following the dealer's receipt of the  
2 notice.

3 *e.* Notwithstanding paragraph "d", the notice period for  
4 termination, cancellation, or nonrenewal of a manufacturer  
5 and dealer agreement for good cause may be reduced to thirty  
6 days if the grounds for such termination, cancellation, or  
7 nonrenewal are due to any of the following factors:

8 (1) The dealer or one of the dealer's owners has been  
9 convicted of or has entered a plea of nolo contendere to a  
10 felony.

11 (2) The dealer has abandoned or closed the dealer's business  
12 operations for ten consecutive business days, unless the  
13 closing is due to an act of God, a strike, a labor difficulty,  
14 or other cause over which the dealer has no control.

15 (3) The dealer has made a significant misrepresentation  
16 that materially affects the business relationship of the  
17 manufacturer or distributor and the dealer.

18 (4) The dealer's license has been suspended, revoked,  
19 denied, or not renewed.

20 (5) The dealer has committed a material violation of this  
21 chapter which is not cured within thirty days after receipt of  
22 written notice of the violation.

23 *f.* Notwithstanding paragraphs "d" and "e", the manufacturer  
24 and dealer agreement may be terminated, canceled, or nonrenewed  
25 for good cause at any time if the reason for the termination,  
26 cancellation, or nonrenewal is the dealer's insolvency, the  
27 dealer's declaration of an assignment for the benefit of  
28 creditors, or the dealer's declaration of bankruptcy.

29 2. *Termination by dealer.*

30 *a.* A dealer may terminate, cancel, or fail to renew a  
31 manufacturer and dealer agreement with good cause.

32 *b.* If the dealer terminates, cancels, or fails to renew  
33 a manufacturer and dealer agreement with good cause, the  
34 manufacturer is required to comply with the provisions of  
35 section 322E.4.

1     *c.* (1) Except as otherwise provided in this paragraph "*c*",  
2 a dealer shall provide a manufacturer or distributor with at  
3 least ninety days' notice of termination, cancellation, or  
4 nonrenewal of the manufacturer and dealer agreement.

5     (2) (a) The dealer has the burden of showing good cause  
6 and the notice shall state all of the reasons for the proposed  
7 termination, cancellation, or nonrenewal. The notice shall  
8 further state that if, within thirty days following receipt  
9 of the notice, the manufacturer or distributor provides to  
10 the dealer a written notice of intent to cure all claimed  
11 deficiencies, the manufacturer or distributor shall then  
12 have ninety days following receipt of the notice to cure  
13 the deficiencies. If the manufacturer or distributor fails  
14 to provide notice of intent to cure the deficiencies to the  
15 dealer within thirty days following receipt of the notice,  
16 the termination, cancellation, or nonrenewal of the agreement  
17 for good cause takes effect thirty days following the  
18 manufacturer's or distributor's receipt of the notice.

19     (b) If the deficiencies stated in the notice are cured by  
20 the manufacturer or distributor within ninety days following  
21 receipt of the notice, the dealer's notice to the manufacturer  
22 or distributor is voided. If the manufacturer or distributor  
23 provides notice of intent to cure the deficiencies stated and  
24 fails to cure the deficiencies within ninety days following  
25 receipt of the notice, the termination, cancellation, or  
26 nonrenewal of the agreement for good cause takes effect ninety  
27 days following the manufacturer's or distributor's receipt of  
28 the notice.

29     *d.* Notwithstanding paragraph "*c*", the notice period for  
30 termination, cancellation, or nonrenewal of a manufacturer and  
31 dealer agreement by a dealer may be reduced to thirty days if  
32 there is good cause for such termination, cancellation, or  
33 nonrenewal due to any of the following factors:

34     (1) The manufacturer or distributor has been convicted of or  
35 has entered a plea of nolo contendere to a felony.

1 (2) The business operations of the manufacturer or  
2 distributor have been abandoned or closed for ten consecutive  
3 business days, unless the closing is due to an act of God,  
4 a strike, a labor difficulty, or other cause over which the  
5 manufacturer or distributor has no control.

6 (3) The manufacturer or distributor has made a significant  
7 misrepresentation that materially affects the business  
8 relationship of the manufacturer or distributor and the dealer.

9 (4) The manufacturer or distributor has committed a  
10 material violation of this chapter which is not cured within  
11 thirty days after receipt of written notice of the violation.

12 (5) The manufacturer or distributor has declared bankruptcy  
13 or insolvency, or an assignment for the benefit of creditors or  
14 bankruptcy has occurred.

15 Sec. 4. NEW SECTION. 322E.4 Repurchase or sale of  
16 inventory.

17 1. If the dealer terminates, cancels, or does not renew  
18 the manufacturer and dealer agreement with good cause as  
19 provided in section 322E.3, subsection 2, and the manufacturer  
20 or distributor fails to provide notice of intent to cure the  
21 claimed deficiencies or fails to cure the claimed deficiencies  
22 as provided in section 322E.3, subsection 2, the manufacturer  
23 or distributor shall, at the dealer's option, and within  
24 forty-five days after termination, cancellation, or nonrenewal  
25 of the agreement, repurchase all of the following:

26 a. (1) All new, untitled recreational vehicles that  
27 were acquired from the manufacturer or distributor within  
28 twelve months prior to the effective date of the notice of  
29 termination, cancellation, or nonrenewal of the agreement, that  
30 have not been used except for demonstration purposes, and that  
31 have not been altered or damaged, at one hundred percent of the  
32 net invoice cost, including transportation, less applicable  
33 rebates and discounts to the dealer.

34 (2) In the event that any of the recreational vehicles  
35 repurchased pursuant to this paragraph "a" are damaged, but

1 do not trigger a consumer disclosure requirement, the amount  
2 due to the dealer shall be reduced by the cost to repair the  
3 vehicle. Damage incurred prior to delivery to the dealer that  
4 was disclosed at the time of delivery does not disqualify  
5 repurchase pursuant to this paragraph "a".

6     *b.* All undamaged accessories and proprietary parts sold  
7 to the dealer for resale within twelve months prior to the  
8 effective date of termination, cancellation, or nonrenewal  
9 of the agreement, if accompanied by the original invoice, at  
10 one hundred five percent of the original net price paid to the  
11 manufacturer or distributor, to compensate the dealer for the  
12 cost of handling, packing, and shipping the parts for return to  
13 the manufacturer or distributor.

14     *c.* All properly functioning diagnostic equipment, special  
15 tools, current signage, or other equipment and machinery  
16 that was purchased by the dealer upon the request of the  
17 manufacturer or distributor within five years prior to the  
18 effective date of the termination, cancellation, or nonrenewal  
19 of the agreement, and that can no longer be used in the normal  
20 course of the dealer's ongoing business.

21     2. If recreational vehicles of a particular line-make  
22 are not returned or required to be returned by the dealer to  
23 the manufacturer or distributor pursuant to the terminated,  
24 canceled, or nonrenewed manufacturer and dealer agreement, the  
25 dealer may continue to sell all line-makes that were subject to  
26 the agreement and are currently in stock until those line-makes  
27 are no longer in the dealer's inventory.

28     Sec. 5. NEW SECTION. 322E.5 Transfer of ownership — family  
29 succession — objections.

30     1. *a.* If a dealer desires to make a change in ownership  
31 of a dealership by sale of the business assets, a stock  
32 transfer, or otherwise, the dealer shall give the manufacturer  
33 or distributor that is a party to a manufacturer and dealer  
34 agreement written notice of the proposed change at least  
35 fifteen business days before the change is effective, including

1 all supporting documentation as may be reasonably required by  
2 the manufacturer or distributor to determine whether to make an  
3 objection to the sale, transfer, or other change in ownership.  
4 In the absence of a breach by the dealer of the manufacturer  
5 and dealer agreement or a violation of this chapter, the  
6 manufacturer or distributor shall not object to the proposed  
7 change in ownership unless the objection to the prospective  
8 transferee is due to any of the following factors:

9 (1) The transferee has previously been a party to a  
10 manufacturer and dealer agreement with the manufacturer or  
11 distributor that was terminated, canceled, or nonrenewed by the  
12 manufacturer or distributor for good cause.

13 (2) The transferee has been convicted of a felony or any  
14 crime of fraud, deceit, or moral turpitude.

15 (3) The transferee lacks any license required by law.

16 (4) The transferee does not have an active line of credit  
17 sufficient to purchase the manufacturer's or distributor's  
18 products.

19 (5) The transferee has undergone bankruptcy, insolvency,  
20 a general assignment for the benefit of creditors, or the  
21 appointment of a receiver, trustee, or conservator to take  
22 possession of the transferee's business or property within the  
23 previous ten years.

24 *b.* If a manufacturer or distributor objects to a proposed  
25 change in ownership of a dealership, the manufacturer or  
26 distributor shall give written notice of its reasons for the  
27 objection to the dealer within ten business days after receipt  
28 of the dealer's notification and supporting documentation of  
29 the proposed change. The manufacturer or distributor has  
30 the burden of proof to show that its objection complies with  
31 the requirements of this subsection. If the manufacturer or  
32 distributor does not give the dealer timely notice of its  
33 objection, the proposed change in ownership of the dealership  
34 shall be deemed approved.

35 2. *a.* It is unlawful for a manufacturer or distributor to

1 fail to provide a dealer with the opportunity to designate,  
2 in writing, a family member as a successor to ownership of  
3 the dealership in the event of the death, incapacity, or  
4 retirement of the dealer. If a dealer desires to designate  
5 a family member as a successor to a dealership, the dealer  
6 shall give the manufacturer or distributor that is a party  
7 to the manufacturer and dealer agreement with the dealer  
8 written notice of the proposed designation or modification of  
9 a previous designation at least fifteen business days before  
10 the designation or proposed modification of a designation is  
11 effective, including all supporting documentation as may be  
12 reasonably required by the manufacturer or distributor to  
13 determine whether to make an objection to the succession plan.  
14 In the absence of a breach by the dealer of the manufacturer  
15 and dealer agreement or a violation of this chapter, the  
16 manufacturer or distributor shall not object to the designated  
17 successor unless the objection is due to any of the following  
18 factors:

19 (1) The designated successor has previously been a party to  
20 a manufacturer and dealer agreement with the manufacturer or  
21 distributor that was terminated, canceled, or nonrenewed by the  
22 manufacturer or distributor for good cause.

23 (2) The designated successor has been convicted of a felony  
24 or any crime of fraud, deceit, or moral turpitude.

25 (3) The designated successor lacks any license required by  
26 law at the time of succession.

27 (4) The designated successor does not have an active  
28 line of credit sufficient to purchase the manufacturer's or  
29 distributor's products at the time of succession.

30 (5) The designated successor has undergone bankruptcy,  
31 insolvency, a general assignment for the benefit of creditors,  
32 or the appointment of a receiver, trustee, or conservator to  
33 take possession of the designated successor's business or  
34 property within the previous ten years.

35 *b.* It is unlawful for a manufacturer or distributor to

1 prevent or refuse to honor the succession of a designated  
2 family member to ownership of a dealership when the dealer  
3 is deceased, incapacitated, or has retired, unless the  
4 manufacturer or distributor has provided to the dealer written  
5 notice of the manufacturer's or distributor's objections to  
6 the succession within ten days after receipt of the dealer's  
7 designation of a successor or modification of the dealer's  
8 succession plan. If a manufacturer or distributor objects  
9 to the proposed succession of a designated family member of  
10 the dealer to the dealership, the manufacturer or distributor  
11 shall give written notice of its reasons for the objection  
12 to the dealer within ten business days after receipt of the  
13 dealer's notification and supporting documentation of the  
14 proposed succession or modification of the succession plan.  
15 The manufacturer or distributor has the burden of proof to  
16 show that the objection complies with the requirements of  
17 this subsection. If the manufacturer or distributor does not  
18 give the dealer timely notice of its objection, the proposed  
19 succession plan for ownership of the dealership shall be  
20 deemed approved. However, a family member of the dealer may  
21 not succeed to ownership of the dealership if the succession  
22 involves, without the manufacturer's or distributor's consent,  
23 a relocation of the dealership or alteration of the terms and  
24 conditions of the manufacturer and dealer agreement.

25 Sec. 6. NEW SECTION. 322E.6 Warranty obligations.

26 1. A warrantor shall do all of the following:

27 a. Specify in writing to each dealer what obligations  
28 the dealer has, if any, for preparation and delivery of, and  
29 warranty services on, the warrantor's products.

30 b. Compensate the dealer for warranty services required of  
31 the dealer by the warrantor.

32 c. Provide the dealer with a schedule of compensation and  
33 time allowances for the performance of warranty services. The  
34 schedule of compensation shall include reasonable compensation  
35 for diagnostic services performed as well as warranty services.

1     2. Time allowances for the diagnosis and performance of  
2 warranty services shall be reasonable for the service to  
3 be performed. In determining what constitutes reasonable  
4 compensation under this section, the principle factors to be  
5 given consideration are the actual wage rates being paid by the  
6 dealer and the actual retail wage rates being charged by other  
7 dealers in the community in which the dealer is doing business.  
8 The compensation of a dealer for warranty services shall not be  
9 less than the lowest actual retail wage rates charged by the  
10 dealer for like nonwarranty services as long as such actual  
11 wage rates are reasonable.

12     3. A warrantor shall reimburse a dealer for any warranty  
13 part, accessory, or complete component at actual wholesale cost  
14 plus a minimum of a thirty percent handling charge, up to a  
15 maximum of one hundred fifty dollars and the cost, if any, of  
16 freight to return such part, component, or accessory to the  
17 warrantor.

18     4. Warranty audits of dealer records may be conducted by a  
19 warrantor within twelve months from the payment of a warranty  
20 claim, and dealer claims for warranty compensation shall not  
21 be denied except for cause, such as performance of nonwarranty  
22 repairs, material noncompliance with the warrantor's published  
23 policies and procedures, lack of material documentation, fraud,  
24 or misrepresentation.

25     5. A dealer shall submit claims for compensation for the  
26 performance of warranty services to the warrantor within  
27 forty-five days after completion of the warranty services.

28     6. A dealer shall immediately notify a warrantor verbally  
29 or in writing if the dealer is unable to perform diagnostic  
30 services and warranty services within ten days of receipt of a  
31 verbal or written complaint from a consumer.

32     7. A warrantor shall disapprove a claim submitted by  
33 a dealer for compensation for the performance of warranty  
34 services, in writing, within forty-five days after submission  
35 of the claim in the manner and form prescribed by the

1 warrantor. A claim not specifically disapproved as required  
2 by this subsection shall be deemed approved and shall be paid  
3 within sixty days of submission of the claim.

4 8. A warrantor shall not do any of the following:

5 a. Fail to perform any of the warrantor's obligations with  
6 respect to its warranted products.

7 b. Fail to include, in written notices of a factory campaign  
8 to recreational vehicle owners and dealers, the expected date  
9 by which necessary parts and equipment, including tires and  
10 chassis or chassis parts, will be available to dealers to  
11 perform the factory campaign work. The warrantor may ship  
12 parts to a dealer to effect factory campaign work, and, if such  
13 parts are in excess of the dealer's requirements, the dealer  
14 may return unused, undamaged parts to the warrantor for credit  
15 after completion of the factory campaign.

16 c. Fail to compensate the warrantor's dealers for authorized  
17 repairs effected by the dealer on merchandise damaged in  
18 manufacture or in transit to the dealer by a carrier designated  
19 by the warrantor, factory branch, distributor, or distributor  
20 branch.

21 d. Fail to compensate the warrantor's dealers in accordance  
22 with the schedule of compensation provided to the dealer  
23 pursuant to this section if the warranty services for which  
24 compensation is claimed are performed in a timely and competent  
25 manner as required in this section.

26 e. Intentionally misrepresent in any way to consumers that  
27 warranties with respect to the manufacture, performance, or  
28 design of recreational vehicles are made by the dealer as  
29 warrantor or co-warrantor.

30 f. Require the warrantor's dealers to make warranties to a  
31 consumer that are in any manner related to the manufacture of  
32 the recreational vehicle.

33 9. A dealer shall not do any of the following:

34 a. Fail to perform predelivery inspection functions in a  
35 competent and timely manner, as specified by the warrantor.

1     *b.* Fail to perform warranty services authorized by the  
2 warrantor in a competent and timely manner on any transient  
3 consumer's recreational vehicle of a line-make sold or serviced  
4 by that dealer.

5     *c.* Fail to accurately document the time spent completing  
6 each repair, the total number of repair attempts conducted on  
7 a single unit, and the number of repair attempts for the same  
8 repair conducted on a single recreational vehicle.

9     *d.* Fail to notify the warrantor within ten days of a second  
10 repair attempt on a recreational vehicle which impairs the use,  
11 value, or safety of the vehicle.

12     *e.* Fail to maintain written records, including a consumer's  
13 signature, regarding the amount of time a unit is stored for  
14 the consumer's convenience during a repair.

15     *f.* Make fraudulent warranty claims or misrepresent the terms  
16 of any warranty.

17     Sec. 7. NEW SECTION. 322E.7 Indemnification.

18     1. *a.* Notwithstanding the terms of a manufacturer and  
19 dealer agreement, a warrantor shall indemnify and hold harmless  
20 the warrantor's dealer against any losses or damages to the  
21 extent that the losses or damages are caused by the negligence  
22 or willful misconduct of the warrantor.

23     *b.* A dealer shall not be denied indemnification for failure  
24 to discover, disclose, or remedy a defect in the design or  
25 manufacturing of a new recreational vehicle. A dealer may  
26 be denied indemnification if the dealer fails to remedy a  
27 known and announced defect in accordance with the written  
28 instructions of the warrantor for whom the dealer is obligated  
29 to perform warranty services.

30     *c.* A dealer shall provide to the warrantor a copy of any  
31 pending lawsuit in which allegations are made that are covered  
32 by the provisions of this subsection within ten days after  
33 receiving notice of such lawsuit.

34     *d.* Notwithstanding any provision to the contrary, this  
35 subsection continues to apply even after a new recreational

1 vehicle is titled.

2 2. *a.* Notwithstanding the terms of a manufacturer and  
3 dealer agreement, a dealer shall indemnify and hold harmless  
4 the dealer's warrantor against any losses or damages to the  
5 extent that the losses or damages are caused by the negligence  
6 or willful misconduct of the dealer.

7 *b.* A warrantor shall provide to the dealer a copy of any  
8 pending lawsuit in which allegations are made that are covered  
9 by the provisions of this subsection within ten days after  
10 receiving notice of such lawsuit.

11 *c.* Notwithstanding any provision to the contrary, this  
12 subsection continues to apply even after a new recreational  
13 vehicle is titled.

14 Sec. 8. NEW SECTION. 322E.8 **Inspection and rejection by**  
15 **dealer.**

16 1. Whenever a new recreational vehicle is damaged prior  
17 to transit or is damaged in transit to the dealer and the  
18 carrier or means of transportation has been selected by the  
19 manufacturer or distributor, the dealer shall notify the  
20 manufacturer or distributor of the damage within the time frame  
21 specified in the manufacturer and dealer agreement and shall do  
22 either of the following:

23 *a.* Request from the manufacturer or distributor  
24 authorization to replace the components, parts, or accessories  
25 damaged or otherwise repair the vehicle to make the vehicle  
26 ready for sale.

27 *b.* Reject the vehicle within the time frame set forth in  
28 subsection 4.

29 2. If the manufacturer or distributor refuses to authorize  
30 repair of the new recreational vehicle within ten days after  
31 receipt of notification, or if the dealer rejects the new  
32 recreational vehicle because of damage, ownership of the  
33 vehicle shall revert to the manufacturer or distributor.

34 3. The dealer shall exercise due care when in custody of  
35 a damaged new recreational vehicle, but the dealer shall have

1 no other obligations, financial or otherwise, with respect to  
2 that vehicle following rejection of the vehicle as provided in  
3 subsection 4.

4 4. The time frame for inspection and rejection of a damaged  
5 new recreational vehicle by a dealer shall be included in the  
6 manufacturer and dealer agreement and shall not be less than  
7 two business days after the physical delivery of the vehicle  
8 to the dealer.

9 5. Any new recreational vehicle that has, at the time of  
10 delivery to the dealer, an unreasonable amount of miles on the  
11 vehicle's odometer, as determined by the dealer, may be subject  
12 to rejection by the dealer and ownership of the vehicle shall  
13 revert to the manufacturer or distributor. In no instance  
14 shall a dealer deem an amount less than the distance between  
15 the dealer and the manufacturer's factory or between the dealer  
16 and the distributor's point of distribution, plus one hundred  
17 miles, as an unreasonable amount of miles.

18 Sec. 9. NEW SECTION. 322E.8A Coercion of dealer prohibited.

19 1. A manufacturer or distributor shall not coerce or attempt  
20 to coerce a dealer to do any of the following:

21 a. Purchase a product that the dealer did not order.

22 b. Enter into an agreement with the manufacturer or  
23 distributor.

24 c. Enter into an agreement that requires the dealer to  
25 submit its disputes to binding arbitration or otherwise waive  
26 rights or responsibilities provided for under this chapter.

27 2. As used in this section, "coerce" includes but is not  
28 limited to doing any of the following:

29 a. Threatening to terminate, cancel, or not renew a  
30 manufacturer and dealer agreement without good cause.

31 b. Threatening to withhold product lines the dealer is  
32 entitled to purchase pursuant to the manufacturer and dealer  
33 agreement.

34 c. Threatening to delay product delivery as an inducement to  
35 amending the manufacturer and dealer agreement.

1     Sec. 10. NEW SECTION.   **322E.9 Civil actions — mediation.**

2     1. A dealer, manufacturer, distributor, or warrantor  
3 injured by another party's violation of this chapter may bring  
4 a civil action in district court to recover actual damages  
5 resulting from such violation. Venue for a civil action  
6 authorized by this section shall be exclusively in the county  
7 in which the dealer's business is located. In an action  
8 involving more than one dealer, venue may be in any county in  
9 which any dealer that is a party to the action is located.

10    2. Prior to bringing suit under this section, the party  
11 alleging a violation of this chapter may serve a written  
12 request for mediation upon the alleged offending party.

13    *a.* The request for mediation shall be served upon the  
14 alleged offending party via certified mail at the address  
15 stated in the manufacturer and dealer agreement between the  
16 parties.

17    *b.* The request for mediation shall contain a brief statement  
18 of the dispute or violation alleged and relief sought by the  
19 party filing the request.

20    *c.* Within twenty days after service of a request for  
21 mediation, the party that was served with the request shall  
22 send via certified mail a written response indicating whether  
23 the party is willing to mediate the dispute. If both parties  
24 agree to mediation, the parties shall mutually select an  
25 independent certified mediator and shall meet with that  
26 mediator for the purpose of attempting to resolve the dispute  
27 or alleged violation. The meeting place for the mediation  
28 shall be in this state at a location selected by the mediator.  
29 The mediator may extend the date for the meeting for good cause  
30 shown by either party or upon stipulation of both parties.

31    *d.* If the dispute will be mediated, the service of a request  
32 for mediation under this section shall toll the time for the  
33 filing of any complaint, petition, protest, or other action  
34 under this chapter until representatives of both parties have  
35 met with the mutually selected mediator for the purpose of

1 attempting to resolve the dispute or alleged violation. If a  
2 complaint, petition, protest, or other action has been filed  
3 before that meeting, the court shall enter an order suspending  
4 any proceeding or action on such complaint, petition, protest,  
5 or other action until the mediation meeting has occurred and  
6 may, upon written stipulation of all parties to the proceeding  
7 or action that they wish to continue mediation under this  
8 section, enter an order suspending the proceeding or action for  
9 as long a period of time as the court considers appropriate.

10 e. Each party to the mediation shall bear their own costs  
11 for attorney fees and shall divide equally among them the cost  
12 of the mediator.

13 3. In addition to the remedies provided in this section,  
14 and notwithstanding the existence of any additional remedy at  
15 law, a manufacturer, distributor, warrantor, or dealer may  
16 apply to the district court for the grant, upon a hearing and  
17 for cause shown, of a temporary or permanent injunction, or  
18 both, restraining any person from acting as a dealer without  
19 being properly licensed, from violating or continuing to  
20 violate any of the provisions of this chapter, or from failing  
21 or refusing to comply with the requirements of this chapter.  
22 Such injunction shall be issued without bond. A single act in  
23 violation of the provisions of this chapter shall be sufficient  
24 cause to authorize the issuance of an injunction pursuant to  
25 this subsection.

26 Sec. 11. NEW SECTION. 322E.10 Jurisdiction.

27 1. A condition, stipulation, or provision in a manufacturer  
28 and dealer agreement restricting jurisdiction to a forum  
29 outside this state is void.

30 2. A condition, stipulation, or provision in a manufacturer  
31 and dealer agreement providing that the dealer consents to the  
32 jurisdiction of a forum outside this state is void.

33 3. A civil action or proceeding arising out of a  
34 manufacturer and dealer agreement may be commenced wherever  
35 jurisdiction over the parties or subject matter exists, even

1 if the manufacturer and dealer agreement limits actions or  
2 proceedings to a designated jurisdiction.

3 Sec. 12. NEW SECTION. 322E.11 **Choice of law.**

4 1. A condition, stipulation, or provision in a manufacturer  
5 and dealer agreement requiring the application of the law of  
6 another state in lieu of this chapter is void.

7 2. A condition, stipulation, or provision in a manufacturer  
8 and dealer agreement that the agreement is to be governed by or  
9 construed in accordance with the law of another state is void.

10 Sec. 13. NEW SECTION. 322E.12 **Waivers void.**

11 A condition, stipulation, or provision in a manufacturer and  
12 dealer agreement requiring a dealer to waive compliance with or  
13 relieving a person of a duty or liability imposed by or a right  
14 provided by this chapter or order under this chapter is void.

15 This section shall not affect the settlement of disputes,  
16 claims, controversies, or civil lawsuits arising or brought  
17 pursuant to this chapter by written release or other written  
18 document where separate and adequate consideration is offered  
19 and accepted.

20 Sec. 14. NEW SECTION. 322E.13 **Application of chapter.**

21 Notwithstanding chapter 322A, a recreational vehicle as  
22 defined in this chapter, is not governed by chapter 322A for  
23 the sale of a new recreational vehicle through a dealer in  
24 this state by a manufacturer or distributor, or pursuant to a  
25 manufacturer and dealer agreement regulated by this chapter.

26 Sec. 15. NEW SECTION. 322E.14 **Administration of chapter.**

27 This chapter shall be administered by the director of  
28 transportation.

29 DIVISION II

30 COORDINATING AMENDMENTS

31 Sec. 16. Section 321.1, subsection 36C, paragraphs b and c,  
32 Code 2015, are amended to read as follows:

33 *b. "Travel trailer"* means a vehicle without motive power  
34 used, manufactured, or constructed to permit its use as a  
35 conveyance upon the public streets and highways and designed

1 to permit its use as a place of human habitation by one or more  
2 persons. The vehicle may be up to eight feet six inches in  
3 width and its overall length shall not exceed ~~forty~~ forty-five  
4 feet. The vehicle shall be customarily or ordinarily used for  
5 vacation or recreational purposes and not used as a place of  
6 permanent habitation. If the vehicle is used in this state as  
7 a place of human habitation for more than ninety consecutive  
8 days in one location it shall be classed as a manufactured or  
9 mobile home regardless of the size limitations provided in this  
10 paragraph.

11 c. "*Fifth-wheel travel trailer*" means a type of travel  
12 trailer which is towed by a pickup by a connecting device known  
13 as a fifth wheel. However, this type of travel trailer may  
14 have an overall length which shall not exceed ~~forty~~ forty-five  
15 feet.

16 Sec. 17. Section 322.3, subsection 1, Code 2015, is amended  
17 to read as follows:

18 1. A person shall not engage in this state in the business  
19 of selling at retail new motor vehicles of any make or  
20 represent or advertise that the person is engaged or intends  
21 to engage in such business in this state unless the person  
22 is authorized to do so by a contract in writing with the  
23 manufacturer or distributor of such make of new motor vehicles  
24 and unless the department has licensed the person as a motor  
25 vehicle dealer in this state in motor vehicles of such make  
26 and has issued to the person a license in writing as provided  
27 in this chapter. A person shall not engage in this state in  
28 the business of selling at retail new motor vehicles that are  
29 recreational vehicles as defined in section 322E.1, unless the  
30 person is authorized to do so by a manufacturer and dealer  
31 agreement as provided in chapter 322E.

32 Sec. 18. Section 322C.2, subsection 4, Code 2015, is amended  
33 by striking the subsection and inserting in lieu thereof the  
34 following:

35 4. "*Fifth-wheel trailer*" means the same as defined in

1 section 322E.1.

2 Sec. 19. Section 322C.2, Code 2015, is amended by adding the  
3 following new subsections:

4 NEW SUBSECTION. 4A. "*Folding camping trailer*" means the  
5 same as defined in section 322E.1.

6 NEW SUBSECTION. 6A. "*Park model recreational vehicle*" means  
7 the same as defined in section 322E.1.

8 Sec. 20. Section 322C.2, subsection 10, Code 2015, is  
9 amended by striking the subsection and inserting in lieu  
10 thereof the following:

11 10. "*Travel trailer*" means the same as defined in section  
12 322E.1.

13 Sec. 21. Section 322C.3, subsection 1, Code 2015, is amended  
14 to read as follows:

15 1. A person shall not engage in this state in the business  
16 of selling at retail new travel trailers of any make, or  
17 represent or advertise that the person is engaged or intends  
18 to engage in such business in this state, unless the person is  
19 authorized by a contract in writing between that person and the  
20 manufacturer or distributor of that make of new travel trailers  
21 to sell the trailers in this state as provided in chapter 322E,  
22 and unless the department has issued to the person a license as  
23 a travel trailer dealer for the same make of travel trailer.

24 Sec. 22. Section 322C.3, subsections 5 and 7, Code 2015, are  
25 amended by striking the subsections.

26 Sec. 23. Section 537A.10, subsection 1, paragraph c,  
27 subparagraph (3), Code 2015, is amended to read as follows:

28 (3) "*Franchise*" also does not include any contract under  
29 which a petroleum retailer or petroleum distributor is  
30 authorized or permitted to occupy leased marketing premises,  
31 which premises are to be employed in connection with the sale,  
32 consignment, or distribution of motor fuel under a trademark  
33 which is owned or controlled by a refiner which is regulated  
34 by the federal Petroleum Marketing Practices Act, 15 U.S.C.  
35 §2801 et seq. The term "*refiner*" means any person engaged in

1 the refining of crude oil to produce motor fuel, and includes  
2 any affiliate of such person. "Franchise" also does not  
3 include a contract entered into by any person regulated under  
4 chapter 103A, division IV, or chapter 123, 322, 322A, 322C,  
5 322D, 322E, 322F, 522B, or 543B, or a contract establishing a  
6 franchise relationship with respect to the sale of construction  
7 equipment, lawn or garden equipment, or real estate.

8 DIVISION III  
9 APPLICABILITY

10 Sec. 24. APPLICABILITY. The provisions of this Act apply  
11 to manufacturer and dealer agreements that are entered into or  
12 renewed on or after July 1, 2016.

13 EXPLANATION

14 The inclusion of this explanation does not constitute agreement with  
15 the explanation's substance by the members of the general assembly.

16 This bill regulates agreements between manufacturers or  
17 distributors, and dealers relating to the sale of recreational  
18 vehicles and includes coordinating amendments and applicability  
19 provisions.

20 DIVISION I. New Code chapter 322E regulates manufacturer  
21 and dealer agreements fixing the rights and responsibilities of  
22 each party pertaining to the sale of new recreational vehicles  
23 in the state. A "recreational vehicle" is a vehicle that is  
24 either self-propelled or towed by a consumer-owned tow vehicle  
25 and is primarily designed to provide temporary living quarters  
26 for recreational, camping, or travel use. A "recreational  
27 vehicle" includes a "motor home", and a "travel trailer" such  
28 as a fifth-wheel trailer, folding camping trailer, or a park  
29 model recreational vehicle.

30 A manufacturer or distributor, and a dealer are required  
31 to enter into a written manufacturer and dealer agreement  
32 before selling new recreational vehicles in the state. The  
33 agreement must designate the dealer's exclusive area of sales  
34 responsibility. A manufacturer or distributor, or a dealer  
35 may terminate, cancel, or fail to renew the agreement with

1 good cause and the bill specifies notification requirements,  
2 what factors may be considered in determining whether good  
3 cause exists, and requirements concerning repurchase or sale of  
4 remaining inventory of recreational vehicles and outstanding  
5 financial obligations between the parties to the agreement.  
6 The party that terminates, cancels, or fails to renew the  
7 agreement for good cause has the burden of showing cause.

8 The bill requires that a dealer that desires to make a change  
9 in ownership of the dealership give notice to the manufacturer  
10 or distributor of the proposed change. The manufacturer or  
11 distributor is not allowed to object to the proposal unless the  
12 objection is due to factors specified in the bill concerning  
13 the proposed transferee. The manufacturer must make a written  
14 objection and has the burden of proving that the objection  
15 complies with the bill's requirements.

16 A manufacturer or distributor is prohibited from failing to  
17 provide a dealer with the opportunity to designate a family  
18 member as a successor to the dealership in the event of the  
19 dealer's death, incapacity, or retirement so long as the  
20 dealer gives written notice of the designation before it takes  
21 effect. The manufacturer or distributor cannot object to the  
22 designation unless the dealer is in breach of the manufacturer  
23 and dealer agreement or in violation of the provisions of new  
24 Code chapter 322E or the objection is due to other specified  
25 factors. A manufacturer or distributor is prohibited from  
26 refusing to honor the succession of the designated family  
27 member unless the manufacturer or distributor has provided the  
28 dealer with written notice of an objection to the dealer's  
29 designation after receiving notice of the designation.

30 In regards to warranty obligations on new recreational  
31 vehicles, the bill requires the warrantor, that person  
32 providing a written warranty on the vehicles, to specify the  
33 dealer's obligations for preparation, delivery, and warranty  
34 services on the warrantor's products and how the dealer will  
35 be compensated for provision of those services. The bill

1 specifies the warrantor's and dealer's obligations to each  
2 other concerning warranties.

3 The bill provides that both the warrantor and the dealer have  
4 duties to indemnify and hold each other harmless to the extent  
5 that losses or damages are caused by the negligence or willful  
6 misconduct of the other. These duties continue even after a  
7 new recreational vehicle is titled.

8 The bill specifies the rights and obligations of a dealer and  
9 a manufacturer or distributor when a new recreational vehicle  
10 is damaged in transit. The bill specifies a time frame for a  
11 dealer to inspect a delivered vehicle and to either reject or  
12 request to repair the damaged vehicle.

13 The bill provides that a manufacturer or distributor shall  
14 not coerce or attempt to coerce a dealer to purchase a product  
15 the dealer did not order, to enter into an agreement with the  
16 manufacturer or distributor, or to enter into an agreement  
17 with the manufacturer or distributor that requires the dealer  
18 to submit disputes to binding arbitration or otherwise waive  
19 rights or responsibilities provided for under the bill. The  
20 bill specifies some of the activities that could be considered  
21 coercion for purposes of the bill.

22 A dealer, manufacturer, distributor, or warrantor injured  
23 by another party's violation of the provisions of new Code  
24 chapter 322E may bring a civil action in district court to  
25 recover actual damages. However, prior to bringing suit, the  
26 party alleging the violation may serve a request for mediation  
27 upon the alleged offending party. If both parties agree to  
28 mediation, the parties mutually select and share the cost of  
29 retaining an independent mediator to attempt to resolve the  
30 dispute or alleged violation. Service of the mediation request  
31 tolls the time for filing any other proceeding or action and  
32 the district court is required to suspend any proceeding or  
33 action until the mediation meeting occurs. In addition to any  
34 other remedy, either party may apply to the district court for  
35 a temporary or permanent injunction.

1 The bill provides that a manufacturer and dealer agreement  
2 cannot restrict jurisdiction over the agreement to a forum  
3 outside of this state, cannot provide that the dealer consents  
4 to jurisdiction outside of this state, and cannot limit actions  
5 or proceedings to a designated jurisdiction.

6 The bill provides that a manufacturer and dealer agreement  
7 cannot require the application of laws of another state in lieu  
8 of this state's laws or provide that the agreement is to be  
9 governed by or construed in accordance with the laws of another  
10 state.

11 A manufacturer and dealer agreement also cannot require a  
12 dealer to waive compliance with, or relieve a person of a duty  
13 or liability imposed, or a right provided, under the bill.  
14 This provision does not prohibit the settlement of disputes  
15 where separate and adequate consideration is given for a waiver  
16 or release.

17 Notwithstanding Code chapter 322A, relating to motor vehicle  
18 franchisers, a recreational vehicle as defined in the bill  
19 is not governed by Code chapter 322A for the sale of a new  
20 recreational vehicle through a dealer in this state by a  
21 manufacturer or distributor, or pursuant to a manufacturer and  
22 dealer agreement regulated by the bill's provisions.

23 The bill provides that new Code chapter 322E shall be  
24 administered by the director of transportation.

25 DIVISION II. Division II of the bill includes coordinating  
26 amendments.

27 Code chapter 321 (motor vehicles and law of the road) is  
28 amended to provide that travel trailers and fifth-wheel travel  
29 trailers shall not exceed 45 feet, instead of 40 feet in  
30 length.

31 Code section 322.3(1) is amended to prohibit a person  
32 from selling a motor vehicle that also meets the definition  
33 of a "recreational vehicle" pursuant to new Code chapter  
34 322E, unless the person is authorized to do so pursuant to a  
35 manufacturer and dealer agreement that meets the requirements

1 of new Code chapter 322E.

2 Code chapter 322C (travel trailer dealers, manufacturers,  
3 and distributors) is amended to include definitions of  
4 recreational vehicles that are consistent with the definitions  
5 in new Code chapter 322E. Code section 322C.3(1) is amended  
6 to provide that the required manufacturer or distributor and  
7 dealer agreement must be made in accordance with the provisions  
8 of new Code chapter 322E. Code section 322C.3 is amended to  
9 strike two provisions concerning manufacturers or distributors,  
10 and dealers of travel trailers that are inconsistent with  
11 provisions contained in new Code chapter 322E.

12 Code section 537A.10(1)(c)(3) is amended to provide that for  
13 purposes of construction of contracts, a franchise does not  
14 include a contract entered into by a person regulated by new  
15 Code chapter 322E.

16 DIVISION III. The provisions of the bill apply to  
17 manufacturer and dealer agreements pertaining to the sale of  
18 new recreational vehicles that are entered into or renewed on  
19 or after July 1, 2016.